

Talking Points for Shaun McGrath, Regional Administrator
Meeting with Powertech Officials regarding Dewey-Burdock Uranium ISR site
Wednesday, December 17, 2014

Background Information

- The UIC program has worked with Powertech over the past few years on their permit applications and aquifer exemption request for the Dewey-Burdock Uranium site in SD. Although the program has had some back and forth discussions with the company, the program has not shared any information regarding permit conditions. That information is internal and deliberative to EPA.
- Powertech will likely indicate that the UIC program gave them a verbal commitment that our draft permits would be released in conjunction with NRC's Draft SEIS, and later stated in a letter that the draft permits would be issued in April 2014. This was unfortunate and the program has explained that we are still working very hard on drafting the permits. However at this time we are not providing any specific updates on the timing of our permitting actions.
- Powertech sent a letter dated November 17, 2014 to the EPA addressing UIC Program concerns related to a proposed pond design sited on top of an alluvial USDW. The letter contained four options that technically address the protection of the USDW, but only one of the proposed options is in compliance with 40 CFR Part 61 Subpart W (as it exists today and what we anticipate the revised Subpart W will require), i.e. including double synthetic liners and leak detection systems. The revised Subpart W rule is expected to be final in early 2015.

Talking points for Powertech Discussion

- EPA continues to work diligently through our internal process to ensure that our draft actions meet the needs of Powertech and of protecting USDWs. [Acknowledge agenda Powertech sent]. EPA's role at this meeting is largely to listen.
 - At this point, we believe we have enough information from Powertech to complete our draft decision and do not plan to ask for more information.
 - EPA must honor the public process and is in a deliberative posture with regard to these actions. Therefore, we cannot provide Powertech with the written assurances they seek in their November 17 letter, nor can we make commitments on timing of permit issuance.
 - However, we can say that we are in our final stages of review. EPA plans to have a robust public comment period and Powertech will have an opportunity to comment on the draft permits and proposed aquifer exemption during the public comment period.
- Although the EPA deemed the Class III and Class V applications to be complete respectively on February 17, 2009 and April 28, 2010, this was an administrative review to verify that all the parts of the permit required under UIC regulations were present in the application. Specifically, the permit applications were administratively complete; however, they were not technically complete.

- The initial applications Powertech submitted in 2008 and 2009 had large gaps in information needed to process the permit. The EPA worked closely with Powertech, requesting information from the applicant as the permitting process moved forward.
- The EPA reviewed extensive and relevant documentation for the related NRC and State actions. Questions arose during concurrent EPA, NRC and DENR analyses of the permit/license applications which needed to be answered before the permit applications were deemed technically complete. The EPA received the final version of the Class V permit application in January 2012 and the Class III permit application in January 2013.
- As the first EPA UIC Class III ISR Uranium Area Permit, this permit is nationally precedent-setting and must be carefully reviewed with repercussions carefully weighed. EPA's mandate is to ensure protection of USDWs.
- The bottom line is that our technical experts need to be confident about the information and in the draft permit's ability to protect USDWs and we need to ensure our record will stand up to anticipated intense scrutiny from what could be a multitude of fronts.
- EPA appreciates Powertech coming in to meet with us.